

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

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|-----------------------|---|----------------------------|
| JAMES WASHINGTON | § | |
| v. | § | CIVIL ACTION NO. 6:07cv470 |
| LT. STANDHOLT, ET AL. | § | |

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff James Washington, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Washington complains that an officer named Badgett stole his sunglasses and reading glasses, and that supervisors refused to do anything about it. He says that he was told not to go to the infirmary because officers had “told the physician’s assistant not to help him.” Although Washington complained that no medical attention was provided to him, he does not indicate that he asked for any.

After review of the pleadings, the Magistrate Judge issued a Report on November 27, 2007, recommending that the lawsuit be dismissed. The Magistrate Judge noted that Washington had stated, falsely, that he had never been sanctioned by any court, when in fact he was sanctioned on April 9, 1996, by the U.S. District Court for the Western District of Texas for making false statements in court filings. As a result, U.S. District Judge Walter Smith entered an order enjoining Washington from filing any new lawsuits without first obtaining permission from a United States district or magistrate judge. *Washington v. Green*, civil action no. W-96-CV-77 (W.D.Tex., April

9, 1996, appeal dismissed). Because this Court, the U.S. District Court for the Eastern District of Texas, honors sanctions imposed by other federal courts in the State of Texas, the Magistrate Judge stated that Washington had not obtained permission to file and so his lawsuit could be dismissed.

Furthermore, the Magistrate Judge said, Washington has filed at least three lawsuits or appeals which have been dismissed as frivolous or for failure to state a claim upon which relief could be granted. As a result, the Magistrate Judge said, Washington is subject to the “three strikes” provision in 28 U.S.C. §1915(g). This statute provides that inmates cannot bring lawsuits *in forma pauperis* unless they are in imminent danger of serious physical injury. In the present case, the Magistrate Judge said, Washington did not pay the full filing fee, nor did he show that he is in imminent danger of serious physical injury. Consequently, the Magistrate Judge recommended that the lawsuit be dismissed.

Washington filed objections to the Magistrate Judge’s Report on December 10, 2007. These objections complain that the Magistrate Judge is “using her office, knowledge and power” to deny Washington access to court. He says that the Magistrate Judge denied everything he asked for, including a hearing, a temporary restraining order, and an order to remove “false disciplinary cases.” Washington does not address the Magistrate Judge’s conclusions about his history of filing frivolous lawsuits or the sanctions imposed on him by Judge Smith. His objections are without merit.

The Court has conducted a careful *de novo* review of the pleadings and records in this cause, as well as the Report of the Magistrate Judge and the Plaintiff’s objections thereto. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Plaintiff’s objections are without merit. It is accordingly

ORDERED that the Plaintiff’s objections are overruled and the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff’s *in forma pauperis* status be and hereby is REVOKED. It is further

ORDERED that this lawsuit is hereby DISMISSED with prejudice as to the refiling of another *in forma pauperis* lawsuit raising the same claims as herein presented, but without prejudice to the refiling of this lawsuit without seeking *in forma pauperis* status and upon payment of the full filing fee, as well as compliance with the sanctions which have been imposed upon him. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So ORDERED and SIGNED this 21st day of December, 2007.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**